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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,247	01/14/2004	Daniel P. Homiller	9314-61	4326
54414 7590 06/09/2009 MYERS BIGEL SIBLEY & SAJOVEC, P.A. P.O. BOX 37428 RALEIGH, NC 27627				
EXAMINER				
PHILIPPE, GIMS S				
ART UNIT		PAPER NUMBER		
2621				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/757,247

Applicant(s)

HOMILLER, DANIEL P.

Examiner

Gims S. Philippe

Art Unit

2621

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9-28 and 30-67 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-28, 30-46 and 48-67 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Response to Amendment

1. Applicant's amendment received on March 20, 2009 in which claims 1, 11, 19 and 31 were amended, has been fully considered and entered, but the arguments are not deemed to be persuasive.

Response to Arguments

2. The applicant argues that the proposed combination of Chaddha and Radha does not meet the claimed limitation. The examiner respectfully disagrees. The limitation claiming "step of performing in real time or near real" is considered to be an alternative language. In addition, the claim (at least claim 1) is considered broad enough that the proposed combination of Chaddha and Radha is considered as meeting such limitations. Further Radha notes that the two streams can be maintained as two separate streams in col. 6, lines 63-65. In col. 7, the examiner understands that Radha teaches non-real time by stating that *"under the hybrid structure..., the coding can take place either in real-time or off-line prior to time of transmission. In the second case the video can be either transmitted or streamed."*

Finally, in col. 7, lines 8-35, Radha proposes the two scenarios (i.e., real-time and non-real time).

The applicant argues that the propose combination does not disclose the limitations of the presently claimed invention. The examiner reminds the applicant that unless there is specific language in the claims that would convey the difference as to how the claims

overcome the proposed combination, the examiner will maintain the position that the arguments are not persuasive.

The rejection is repeated below for the sake of completeness.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-7, 9-28, 30-46 and 48-67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chaddha (US Patent no. 6266817) in view of Radha et al. (US Patent no. 6639943).

Regarding claims 1, 11, 41 and 49, Chaddha discloses a multimedia distributing method (See Abstract). The method comprising transmitting multimedia data having a first resolution (See col. 5, lines 40-41 and lines 62-63); and separately transmitting supplemental data, which, when combined with the multimedia data having a first resolution, provides multimedia content at a second resolution that is higher than the first resolution (See col. 5, lines 57-59 and lines 64-67).

It is noted that while Chaddha proposes realtime and non-real time compression

of the frame to be transmitted (See Chaddha col. 12, lines 37-44), it is silent about not performing in real-time or near real-time the separate transmission of supplemental data.

However, Radha provides a multimedia distribution method including the step of not performing in real-time or near real-time the separate transmission of supplemental data (See Radha col. 6, lines 63-67, col. 7, lines 1-12).

Therefore, it is considered obvious that one skilled in the art at the time of the invention would recognize the advantage of modifying Chaddha's step of performing non-real time encoding by incorporating Radha's step of not performing in real-time or near real-time the separate transmission of supplemental data. The motivation for performing such a modification in Chaddha is to allow the user to select a preference for quality and/or temporal scalability as needed as taught by Radha (See col. 7, lines 18-22).

As per claims 19, 24 and 31-34, Chaddha discloses a multimedia playing method (See Abstract). The method comprising receiving multimedia data having a first resolution (See col. 5, lines 40-41 and lines 62-63); separately receiving supplemental data, which, when combined with the multimedia data having a first resolution, provides multimedia content at a second resolution that is higher than the first resolution; combining the multimedia data having a first resolution and the supplemental data to provide the multimedia content at a second resolution that is higher than the first resolution (See col. 5, lines 57-59 and lines 64-67); and playing the multimedia content

at a second resolution that is higher than the first resolution (See fig. 1, items 160 and 180 and col. 9, lines 56-61). The applicant should also note that Chaddha in disclosing a payment for service in col. 12, lines 5-20 where a global prioritization must take place, inherently provide the streaming and downloading. To the examiner, the downloading takes place as the user pay for what he/she is willing to pay.

As per claims 20-21, 53-54 and 60, Chaddha discloses a multimedia system comprising a receiver that is configured to receive multimedia data having a first resolution and to separately receive supplemental data (See col. 9, lines 62-65), which, when combined with the multimedia data having a first resolution, provides multimedia content at a second resolution that is higher than the first resolution (See col. 10, lines 1-9); a processor that is configured to combine the multimedia data having a first resolution and the supplemental data to provide the multimedia content at a second resolution that is higher than the first resolution (See step 540, items 530 and 510 of fig. 3); and a multimedia transducer that is configured to play the multimedia content at a second resolution that is higher than the first resolution (See col. 10, lines 10-17).

As per claims 2-3, 12-13, 48, 50, 54-56, 61-63 most of the limitations of these claims have been noted in the above rejection of claims 1 and 11. In addition, Chaddha further discloses streaming the multimedia data having a first resolution, and wherein separately transmitting supplemental data comprises downloading supplemental data, which, when combined with the multimedia data having a first resolution, provides the

multimedia content at a second resolution that is higher than the first resolution (See col. 3, lines 49-61).

As per claims 5, 26 and 43, Chaddha further discloses the supplemental data and multimedia content at the second resolution being a second size (See col. 3, lines 49-61 and col. 5, lines 40-44).

As per claims 6, 7, 15, 27-28, 38, 39, 45, 46, 51, 52, 58, 59, 66 and 67, most of the limitations of these claims have been noted in the above rejection of claims 1, 11, 19, 31, 41, 49, 53 and 60. In addition, Chaddha further discloses a method wherein transmitting multimedia data is subject to a first digital rights management scheme (See col. 12, lines 5-18); and wherein separately transmitting supplemental data is subject to a second digital rights management scheme that is different from the first digital rights management scheme; and wherein separately transmitting supplemental data is preceded by receiving payment for the supplemental data that is greater than payment that is received for the multimedia data having a first resolution (See col. 12, lines 59-67 and col. 13, lines 1-4). The applicant should note that if the user determines that he/she want supplemental data, the he/she will be paying first before receiving the requested data (See col. 12, lines 63-65). The play specific media content is part of the user willing to pay for a specific media content. In other words, while the terminology may different, the purpose is similar.

As per claims 9 and 17, most of the limitations of these claims have been noted in the above rejection of claims 1, 19, 41. In addition, Chaddha further discloses a method wherein transmitting multimedia data is performed in real or near real-time (See col. 13, lines 5-17; and wherein separately transmitting supplemental data is not performed in real or near real-time; and transmitting multimedia data is performed from a first multimedia server; and wherein separately transmitting supplemental data is performed from a second multimedia server that is different from the first multimedia server (See fig. 1, items 20, 55, 90 and 100, col. 12, lines 40-48).

As per claims 10, 18, 30, 40, Chaddha further discloses a method wherein transmitting multimedia data is performed using a wireless network; and wherein separately transmitting supplemental data is performed using a wired network (See Chaddha col. 3, lines 35-48).

As per claims 22-23, 35-36, 42, 64, the steps of receiving, separately receiving, combining and playing by a single user and the steps of receiving multimedia data and separately receiving supplemental data are at least partially separated in receiving time, originating space, receiving channel and/or medium are considered met by Chaddha since a user can determine whether or not he/she needs data (See col. 12, lines 21-23 and col. 3, lines 46-48). The applicant should note that since Chaddha includes a market-based mechanism, the steps of partially receiving data in separated time is an inherent feature.

As per claims 4, 14, 25, 37, 44, 57 and 65, since Chaddha clearly states that at the receiving end, the invention comprises decoders of varying characteristics that extract different streams at different spatial and temporal resolutions (See col. 3, lines 48-62), Chaddha enhances several perceptual distortions (Chaddha col. 4, lines 1), and decoding permits codewords to include preprocessed color conversion, dithering, edge enhancement to name a few. It is rather considered inherent that steps of providing first and second sampling frequencies, wider frequency ranges, greater frame rate are included in the method of Chaddha (See col. 10, lines 1-52).

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gims S. Philippe whose telephone number is (571) 272-7336. The examiner can normally be reached on M-F (10:30-7:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on (571) 272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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